

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD GALICIA,

Defendant.

No. 2:94-cr-00294-06 WBS

ORDER

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Defendant has filed a motion for reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2). The question presented is whether defendant's sentence of life in prison should be reduced to 444 months. Although it is problematical whether the court's decision has any practical consequence, the court has considered the motion and opposition thereto.

Because defendant was sentenced subject to a mandatory minimum of life in prison, his sentence was not affected by Amendment 782 to § 2D1.1 of the Sentencing Guidelines. See United States v. Paulk, 569 F.3d 1094, 1095-96 (9th Cir. 2009);

1 United States v. Sykes, 658 F.3d 1140, 1147-48 (9th Cir 2011).

2 Defendant argues that because his qualifying felony
3 convictions were reduced to misdemeanors pursuant to California's
4 Proposition 47 he was not in fact subject to the mandatory life
5 sentence. However, the Ninth Circuit has recently held in United
6 States v. Diaz, 2016 WL 1579691, at *5 (9th Cir. Apr. 20, 2016)
7 that Proposition 47 does not undermine a prior conviction's
8 felony-status for purposes of the mandatory sentencing provisions
9 of 21 U.S.C. § 841.

10 IT IS THEREFORE ORDERED that defendant's Amended Motion
11 to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(2) (Docket No.
12 528) be, and the same hereby is DENIED.

13 Dated: July 14, 2016

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15 WILLIAM B. SHUBB

16 UNITED STATES DISTRICT JUDGE
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